

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

WALTER AND VIRGINIA SALMONS,
INDIVIDUALLY AND AS NEXT FRIEND
AND GUARDIAN OF BABY W.S.;

ANTHONY ANDERSON,
INDIVIDUALLY AND AS NEXT FRIEND
AND GUARDIAN OF BABY A.L.A., ON
BEHALF OF THEMSELVES AND ALL
OTHERS SIMILARLY SITUATED;

AND HADEN TRAVIS BLANKENSHIP,
INDIVIDUALLY AND AS NEXT FRIEND
AND GUARDIAN OF BABY Z.D.B., ON
BEHALF OF THEMSELVES AND ALL
OTHERS SIMILARLY SITUATED,

PLAINTIFFS,

v.

MCKESSON CORPORATION;
CARDINAL HEALTH, INC.;
AMERISOURCEBERGEN
CORPORATION; TEVA
PHARMACEUTICAL INDUSTRIES,
LTD.; TEVA PHARMACEUTICALS USA,
INC.; CEPHALON, INC. MYLAN
PHARMACEUTICALS, INC.; JOHNSON
& JOHNSON; JANSSEN
PHARMACEUTICALS, INC.; ORTHO-
MCNEIL-JANSSEN
PHARMACEUTICALS, INC. n/k/a
JANSSEN PHARMACEUTICALS, INC.;
JANSSEN PHARMACEUTICA INC. n/k/a
JANSSEN PHARMACEUTICALS, INC.;
ENDO HEALTH SOLUTIONS INC.;
ENDO PHARMACEUTICALS, INC.;
ALLERGAN PLC f/k/a ACTAVIS PLC;
WATSON PHARMACEUTICALS, INC.
n/k/a ACTAVIS, INC.; WATSON
LABORATORIES, INC.; ACTAVIS LLC;

MDL No. 2804

Judge Dan Aaron Polster

CASE No. 1:18-op-45268-DAP

and ACTAVIS PHARMA, INC. f/k/a
WATSON PHARMA, INC., DEPOMED,
INC.; MALLINCKRODT LLC;
MALLINCKRODT PLC;
SPECGX LLC; PAR
PHARMACEUTICAL, INC.; PAR
PHARMACEUTICAL COMPANIES, INC.;
NORAMCO, INC.; INDIVIOR, INC.; CVS
HEALTH CORPORATION; RITE AID OF
MARYLAND, INC.; RITE AID CORP.;
WALGREENS BOOTS ALLIANCE, INC.;
WALGREEN EASTERN CO.;
WALGREEN CO.; WAL-MART INC. f/k/a
WALMART STORES, INC.; MIAMI-
LUKEN, INC.; COSTCO WHOLESALE
CORPORATION; H.D. SMITH, LLC; H.D.
SMITH HOLDINGS, LLC; H.D. SMITH
HOLDING COMPANY; ANDA, INC.

DEFENDANTS.

MOTION FOR LEAVE TO FILE FOURTH AMENDED CLASS ACTION COMPLAINT

Pursuant to Federal Rule of Civil Procedure 15(a)(1)(B), counsel for NAS Plaintiffs in the above-captioned case seek leave to file a fourth amended class action complaint. The purpose of the proposed amended pleading is to bring the causes of action in line with those raised in related complaints by NAS plaintiffs in Ohio and California in order to facilitate class certification. A copy of the proposed amended pleading is attached as Exhibit A.

Federal Rule 15(a)(2) permits a party to amend a pleading with leave of court, and provides that “[t]he court should freely give leave when justice so requires.” Here, Plaintiffs have been ordered to file a consolidated motion for class certification. In order to do so and to streamline the process and legal arguments for the Court and all parties, consistency across the pleadings is necessary. The proposed amended pleading would streamline the causes of action by NAS Legal Guardians in West Virginia to bring those allegations in line with the pending class action pleadings in related cases in California and Ohio. The amended pleading clarifies

that this legal action pursues claims solely on behalf of Legal Guardians who have a legal duty to ensure that children in their charge receive adequate medical treatment, rather than asserting claims on behalf of the individual children themselves. The amended pleading will not prejudice Defendants because the allegations and causes of action align with related class action complaints pending in Ohio and California. By limiting the pleading to those factual and legal theories that are currently pending in other states, the case will be more amenable to class certification and resolution, and in turn promotes judicial efficiency in resolving this complex, multifaceted matter.

Further, two of the lead plaintiffs Virginia and Walter Salmon have recently left the State of West Virginia and have not to seek lead plaintiff status.

In sum, there is good cause shown for NAS Legal Guardian Plaintiff's motion for leave to file an amended pleading. Plaintiffs consulted with counsel for Defendants prior to making this motion Defendants have indicated their opposition.

DATED: December 12, 2019.

Respectfully submitted,

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